

AGENDA

Denver Board of Water Commissioners

Video Conference: <http://zoom.us/join>, Meeting ID: 994 9121 2503 - Passcode: 472474 or

Dial in (669) 900-6833 - Meeting ID: 994 9121 2503 - Passcode: 472474

Wednesday, September 8, 2021 9:00 a.m.

I. INTRODUCTORY BUSINESS

A. Call to Order and Determination of Quorum

B. Public Comment and Communications

At this point in the agenda, the Board may allow members of the public to address the Board on any item of interest within the jurisdiction of the Board, and not on the agenda for action. Speakers wishing to address a specific Action Item will be invited to address the Board when the item is being considered. Three minutes are allowed for each person unless the President determines otherwise.

1. Distributor Communications
2. Citizen Advisory Committee Communications

C. Ceremonies, Awards and Introductions

II. ACTION ITEMS

A. Consent Items

Items listed below are considered routine and may be enacted by one motion and vote. If any Board member desires discussion beyond explanatory questions, or corrections to the Minutes, the President may order that item to be considered in a separate motion and vote.

1. Minutes from August 11, 2021
2. Minutes from August 25, 2021
3. Identification of Discretionary Positions
4. Vault Modifications 2021/2022 – Contract 504773
5. Conduit No. 12 Valve Vault Rehab at Loretto Heights – Contract 504783

B. Individual Approval Items

- | | | |
|--|----------------|-----------|
| 1. Appointment to the Citizens
Advisory Committee – Denver
Citizens Representative | Ashley Denault | 5 minutes |
|--|----------------|-----------|

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III. POLICY MATTERS

- | | | |
|--|-----------------|------------|
| A. Financial Plan, Long-Term Forecast and Rates | Angela Bricmont | 60 minutes |
|--|-----------------|------------|

IV. EXECUTIVE UPDATE

- A. CEO Update**
- B. CFO Update**
- C. Operations Update**

V. BRIEFING PAPERS & REPORTS

- A. Briefing Paper**
 - 1. Private Letter Ruling
- B. Report**

VI. ADJOURNMENT

VII. TRUSTEE MATTERS

VIII. EXECUTIVE SESSION

The Board may adjourn the regular meeting and reconvene in executive session on topics authorized by D.R.M.C Sec. 2-34.

- A. Confidential Report**

DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: September 8, 2021

Board Item: II-A-3

Identification of Discretionary Positions

Action by Consent

Individual Action

Purpose and Background:

The purpose of this Board item is to approve updates to the list of discretionary positions.

The Denver Charter, section 10.1.6, allows the Board to hire up to 2% of its regular employees outside of classified service as “at will” employees who serve solely at the pleasure of the Board. Denver Water refers to these employees as discretionary employees. Discretionary positions are generally senior level or policymaking positions that report directly to the CEO/Manager or to a Chief, or positions held by lower-level employees whose actions could have broad organization impact or put Denver Water at significant risk. Per the Charter, the Board determines which positions shall be discretionary.

Reorganizations in late 2019 and the recent elimination of the Division of External Affairs require the following updates to the list of discretionary positions.

Discretionary Position	Current Incumbent	Discretionary Status	Proposed Change
CEO/Manager	Lochhead, James S.	No change	
Chief of Staff	Anderson, Julie A.	No change	
General Counsel	Brody, Jessica R.	No change	
Chief Administrative Officer	Good, Brian D.	No change	
Chief Engineering Officer	Mahoney, Robert J.	No change	
Chief Finance Officer	Bricmont, Angela C.	No change	
Chief Operations & Maintenance Officer	Roode, Thomas J.	No change	
Chief Internal Auditor	Gorgemans, Denis	No change	
Director of Financial Planning and Performance	Abram, Stephanie M.	No change	Title change
Director of Human Resources	Burgess, Kim R.	No change	Title change
Director of IT Cybersecurity	Nguyen, Tung M.	No change	
Director of Public Affairs	Chesney, Stacy L.	No change	
Rates Manager	Davis, Fletcher W.	No change	
Treasurer	Sharma, Usha	No change	
Chief Water Resource Strategy Officer	Marsicek, Richard B.	Add	New Position
Director of Enterprise IT	Roberts, Virginia A.	Add	New Position
Director of Emergency Management, Safety and Security	Taussig, Jason	Add	Reevaluated for Impact and Risk
Chief External Affairs Officer	Vacant	Remove	Position Eliminated
Chief Human Resources Officer	Vacant	Remove	Position Eliminated
Chief Information Officer	Vacant	Remove	Position Eliminated
Director of Engineering	Vacant	Remove	Reevaluated for Impact and Risk
Government Relations Manager	Vacant	Remove	Position Eliminated

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Budget and Schedule:

There is no budgetary impact for this item.

Recommendation:

Staff recommends the Board approve the updates to the list of discretionary positions detailed in the table above.

Approvals:

- | | |
|---|---|
| <input checked="" type="checkbox"/> James S. Lochhead, CEO/Manager | <input type="checkbox"/> Brian D. Good, Chief Administrative Officer |
| <input checked="" type="checkbox"/> Julie Anderson, Chief of Staff | <input type="checkbox"/> Richard B. Marsicek, Chief Water Resource Strategy Officer |
| <input checked="" type="checkbox"/> Jessica R. Brody, General Counsel | <input type="checkbox"/> Robert J. Mahoney, Chief Engineering Officer |
| <input type="checkbox"/> Angela C. Bricmont, Chief Financial Officer | <input type="checkbox"/> Thomas J. Roode, Chief Operations Officer |

DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: September 8, 2021

Board Item: II-A-4

Vault Modifications 2021/2022 Contract 504773

Action by Consent

Individual Action

Purpose and Background:

The purpose of this Board item is to approve Contract 504773 for the Vault Modifications 2021/2022 project. The Vault Modifications Program is an annual program to modify, repair, replace, or construct new vaults in Denver Water's distribution system. The vault sites for this project were selected based on a condition assessment, their importance to the operation of the distribution system and ability to schedule an outage. All the vaults are located at the 56th Avenue Facility, which will undergo an outage for the project. The project scope consists of providing the labor, materials, and equipment to rehabilitate the following three vaults.

- Dewatering Pump Vault: Full vault rehabilitation and installation of owner-furnished pumps.
- Valve Vaults No. 3 & 4: Full vault rehabilitation and installation of owner-furnished valves.

Budget and Schedule:

The total amount of this contract is \$3,402,225 and the term of the contract is September 8, 2021 through July 15, 2022. Funds for this contract will come from the 2021 budget for Vault Modifications 2021/2022 business unit, which has sufficient funds to pay the \$400,000 estimated to be needed in 2021. The remaining \$3,002,225 will be budgeted in 2022.

Selection of Business Partner:

Denver Water solicited bids from five general contractors listed on the prequalified contractor list under the civil vault discipline. This contract was a restricted bid process using invitations to bid on the QuestCDN platform. On August 18, 2021 bids were received from five general contractors. BT Construction, Inc was selected based on the lowest cost bid.

S/MWBE Information:

The Small and Minority and Women-owned Business Enterprise goal established for this project is 5% participation. BT Construction, Inc. has proposed 5.7% participation.

Recommendation:

Staff recommends that the Board approve Contract 504773 with BT Construction, Inc. for the Vault Modifications 2021/2022 project for the contract period September 8, 2021 through July 15, 2022 for a total contract amount not to exceed \$3,402,225.

Approvals:

- | | |
|---|---|
| <input checked="" type="checkbox"/> James S. Lochhead, CEO/Manager | <input type="checkbox"/> Brian D. Good, Chief Administrative Officer |
| <input type="checkbox"/> Julie Anderson, Chief of Staff | <input type="checkbox"/> Richard B. Marsicek, Chief Water Resource Strategy Officer |
| <input type="checkbox"/> Jessica R. Brody, General Counsel | <input checked="" type="checkbox"/> Robert J. Mahoney, Chief Engineering Officer |
| <input checked="" type="checkbox"/> Angela C. Bricmont, Chief Financial Officer | <input type="checkbox"/> Thomas J. Roode, Chief Operations Officer |

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DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: September 8, 2021

Board Item: II-A-5

Conduit No. 12 Valve Vault Rehab at Loretto Heights Contract 504783

Action by Consent

Individual Action

Purpose and Background:

The purpose of this Board item is to obtain contract approval to replace two valve vaults on Conduit No. 12 at Loretto Heights. The project scope is to remove both valve vaults and install buried steel pipe in its place with a valve at the north site. The valve vaults, constructed in 1925, isolate an 84-inch diameter tunnel that crosses through the Loretto Heights area near Dartmouth Avenue and Federal Boulevard. The vaults each house a 60-inch gate valve and appurtenances, some of which are no longer needed. The north valve is inoperable and, while the south valve is operable, the vault floods due to the operating stem leaking when in the closed position. The Loretto Heights area is currently undergoing redevelopment and the timing of this project precedes the redevelopment in an effort to minimize disturbance to property owners in the future.

Budget and Schedule:

The total amount of this contract is \$1,252,700 and the term of the contract is September 8, 2021 through April 15, 2022. Board approval and award of this project is being requested now to allow sufficient time for critical material approval and acquisition of long lead time items that have been affected by supply chain issues. With approval of this Board item, the full contract amount will be included in the final 2022 capital budget for Board approval.

Selection of Business Partner:

Denver Water solicited bids from five general contractors listed on the prequalified contractor list under the civil pipeline discipline. This contract was a restricted bid process using invitations to bid on the QuestCDN platform. On August 24, 2021 bids were received from four general contractors. BT Construction, Inc. was selected based on the lowest cost bid.

S/MWBE Information:

The Small and Minority and Women-owned Business Enterprise goal established for this project is 8% participation. BT Construction, Inc. has proposed 9% participation.

Recommendation:

Staff recommends that the Board approve Contract 504783 with BT Construction, Inc. for the Conduit No. 12 Valve Vault Rehab at Loretto Heights project for the contract period September 8, 2021 through April 15, 2022 for a total contract amount not to exceed \$1,252,700.

Approvals:

- James S. Lochhead, CEO/Manager
- Julie Anderson, Chief of Staff
- Jessica R. Brody, General Counsel
- Angela C. Bricmont, Chief Financial Officer

- Brian D. Good, Chief Administrative Officer
- Richard B. Marsicek, Chief Water Resource Strategy Officer
- Robert J. Mahoney, Chief Engineering Officer
- Thomas J. Roode, Chief Operations Officer

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DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: September 8, 2021

Board Item: II-B-1

Appointment to the Citizens Advisory Committee Denver Citizens Representative

Action by Consent

Individual Action

Purpose and Background:

The purpose of this Board item is to recommend the appointment of two new Denver citizen representatives to the Citizens Advisory Committee (CAC).

Denver Water's CAC is a 10-member volunteer committee that advises Denver Water staff and the Board of Water Commissioners on a variety of issues while encouraging and coordinating public participation in the organization's policymaking process.

The CAC was created as part of the 1979 Foothills Agreement that, among other things, required Denver Water to form a citizens group charged with representing public interests in specific categories of stakeholder groups: Denver citizen representatives (3), West Slope representatives (2), suburban customer representative (1), environmental representative (1), public interest group representative (1), distributor representative (1) and Homebuilders Association of Metro Denver representative (1). The CAC recommends candidates to the Board, and the Board has appointing authority for the CAC.

There are currently two vacant Denver citizens representative positions. In May 2021, Emily Orbanek resigned from her position due to a move. The term for another Denver citizen representative, Paul Aldretti, will end in December 2021.

According to CAC bylaws, qualifications for the Denver citizen representative include being a customer in Denver Water's service area, a United States citizen, and a resident of Colorado for five years or more, as well as being a resident of the City and County of Denver. The person must not be employed by Denver Water at the time of serving and must have the ability and willingness to have contact with stakeholders.

The CAC received over 10 applications for the two Denver citizen representative positions and interviewed six candidates. The CAC would like to put forward for the Board's consideration three candidates: Lisa Mathai, James Berkeley and Charles Garcia. The majority of CAC members recommend Lisa Mathai and James Berkeley for the vacant Denver citizens representative position and the position currently held by Paul Aldretti, respectively.

All three candidates impressed the committee with their professional and personal experience. Ms. Mathai brings deep experience in engagement, and the committee likes the energy they believe she will bring to the CAC. The committee also thought Mr. Berkeley's professional career and familiarity with Colorado water issues would be an asset. Mr. Garcia similarly brings significant experience with environmental issues and is well-connected professionally throughout the Denver area. A brief statement of the candidates' interest, as well as their resumes, are attached.

Budget and Schedule:

There is no budgetary impact for this item.

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Recommendation:

Staff recommends that the Board appoint Lisa Mathai and James Berkeley for three-year terms for the two open Denver citizen representative positions.

Approvals:

- | | |
|--|---|
| <input checked="" type="checkbox"/> James S. Lochhead, CEO/Manager | <input type="checkbox"/> Brian D. Good, Chief Administrative Officer |
| <input checked="" type="checkbox"/> Julie Anderson, Chief of Staff | <input type="checkbox"/> Richard B. Marsicek, Chief Water Resource Strategy Officer |
| <input type="checkbox"/> Jessica R. Brody, General Counsel | <input type="checkbox"/> Robert J. Mahoney, Chief Engineering Officer |
| <input type="checkbox"/> Angela C. Bricmont, Chief Financial Officer | <input type="checkbox"/> Thomas J. Roode, Chief Operations Officer |

DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: September 8, 2021

Board Item: V-A-1

Briefing Paper for Private Letter Ruling

Strategic Plan Alignment

Lenses: Customer Centric Industry Leader Long-Term View
Denver Water sought a Private Letter Ruling from the IRS to confirm that it could issue tax-exempt bonds to fund the Lead Reduction Program (LRP). This low-cost option for financing the LRP helps ensure that Denver Water can deliver this important public health initiative while maintaining affordable rates.

Summary

Typically, Denver Water raises money for capital projects by issuing revenue bonds. The IRS sets strict limits on the amount of proceeds from tax-exempt bonds that can be used to benefit private businesses. We sought a private letter ruling to confirm that use of bond proceeds to replace lead service lines owned by customers would not cause the bonds to be considered taxable, rather than tax-exempt. The IRS determined that Denver Water's Series 2021A Bonds could remain tax-exempt so long as the payments received from customers that are private business users of lead service line replacements and attributable to the costs of replacing the lead service lines do not exceed 10% of the debt service on the bonds. Based on Denver Water's approved 2021 budget, we will easily satisfy this test.

Background

Service lines are owned by the customers and not Denver Water. As part of the LRP, however, Denver Water has agreed to replace privately-owned lead service lines to reduce lead exposure and protect the health of our customers. Denver Water estimates that there are between 64,000 and 84,000 lead service lines to replace over the course of the 15-year LRP, and full implementation of the LRP is anticipated to cost \$671.1 million over that timeframe.

In general, tax-exempt bonds are issued by governmental entities to fund public works projects, and federal law and regulations limit the amount of any issuance of tax-exempt bonds that can be used for private, rather than public, purposes. If more than 10% of the proceeds are used for private business purposes and private payments "in respect of the property financed" exceed 10% of the debt service on the bonds, the bonds are taxable rather than tax-exempt. "Private business use" means that the proceeds are used in a trade or business carried on by any person other than a governmental entity. Thus, any commercial property, and potentially any residential property from which a business operates, could be considered private business use of the service line. While private business users are not assessed a separate fee or charge for receiving a lead service line replacement, Denver Water receives payment in the form of water rates, a portion of which is used for debt service. The Private Letter Ruling confirmed that in analyzing what is considered to be a private payment in respect of property financed, we only needed to consider that portion of the rates received from private business users that was used to fund the LRP. Being able to split out that portion of our revenue allows Denver Water to keep private payments well under the 10% threshold, at 0.27% of debt service this year. Future bond issuances can likely be structured to stay under the 10% threshold, but each issuance will need to be analyzed.

Budget

In general, using tax-exempt debt to fund projects can save an estimated 25% of the cost of financing as compared to taxable bonds. At an average cost of debt of

2.5% over the life of the loan, the total interest cost to issue \$450 million in debt to fund LRP project in years 2022-2034 would amount to approximately \$101.5 million on a tax-exempt basis. This compares to \$135.4 million in interest cost on taxable basis for the same period – a difference of almost \$34 million over the next 13 years.

Alternatives

If the IRS ruled that the bonds would be taxable, we had the option of either issuing taxable bonds, not financing these costs, or seeking other sources for funding for the LRP.

Approach

Other water providers are interested in methods of financing lead service line replacement within their service areas. Technically, a private letter ruling only applies to the entity to whom it is issued (here, Denver Water). It is common practice, however, for others to use a private letter ruling as guidance in similar situations. We will share this ruling with industry groups and stakeholders so that other water providers and their customers might benefit from it.

Owner(s)

Finance and Office of General Counsel

Attachments

Private Letter Ruling

Respectfully submitted,

Angela Bricmont, Chief Finance Officer

Jessica Brody, General Counsel